Remarks and Arguments

5   1. This amendment is in response to the Office Action mailed July 13, 2006. It
amends claims 1, 29, 32 and 37 in a way to clarify these claims. Also, since
some of the claims referred to a "recall notice identifier", while others referred
to a "notice identifier", even though these terms have been defined as being
synonymous, the term "recall" has been added before the term "notice
10   identifier" in claims 29 and 32 so the same term is used throughout the
claims. Claims 1, 7, 24 and 29-44 remain in this application.

2. Claims 1, 7, and 24 have been rejected under 35 USC 103(a) as being
unpatentable over US PAT 6,611,201, the now notorious Bishop Patent '201.

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Applicant notes that the burden of establishing obviousness rests on the
Examiner. In order to support a prima facie case for obviousness using a
particular set of references, the references must exhibit the following
attributes:

20   (a) The prior art references must collectively teach or suggest all of the
claim limitations in the application;

(b) There must be a reasonable expectation of success in modifying the
reference; and

(c) The references must suggest or provide some motivation to modify

25   and / or combine the reference teachings.

With respect to Claim 1 and 24, Applicant notes that the '201 reference fails
to teach a crucial claim limitation, that of receiving a recall notice identifier that

corresponds to a description of the recall that is stored in a memory remote from the product. This same limitation is set forth in Claims 1, 7 and 24.

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The Examiner stated on page 6 of the Office Action that the terms "recall notice identifier" and "notice identifier" are not included in the claims. This must be an oversight. The term "recall notice identifier" appears in all of the independent claims 1 (l. 11-12), 24 (l. 17-18, 19), 29 (l. 20), 32 (l.18-19), 38 (l. 4), and 41 (l. 20). Indeed, as will be discussed, this concerns an important feature of Applicant's invention which is not disclosed in, or suggested by, the

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cited Bishop '201 patent.

The Bishop '201 patent concerns remotely communicating with a vehicle in order to access, monitor and control certain functions of the vehicle. (Col. 1, lines 18-26) One of the components is a warning device that can signal a

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recall of the vehicle (Col. 16, lines 19-24). The Examiner argues that a signal that triggers the recall warning device is analogous to a recall notice identifier. First and foremost, the signal that triggers the recall warning device in the '201 reference is just that – a command to turn on a light or to select a pre-programmed message. The Applicant here avers that there is no way to

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distinguish the reason for the recall by just sending a command to turn on an indicator. In Applicants system, the recall notice identifier carries an indication of the reason for the recall, and hence, carries information that would be helpful in evidencing a particular reason for a recall. Applicant avers that any arguments made by the Examiner that the Bishop '201 system

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is used to convey recall information is simply argumentative and can not be supported by the reference as Applicant will herein detail.

For example, the Examiner argues that the '201 reference provides for a recall notice identifier as "recall information" (col 16, lns 34 - 38). The only

thing that the '201 reference teaches in this citation is that Bishop's apparatus can deliver *recall information* to the owners of a vehicle quickly. This statement is taken completely out of context and does not even remotely suggest that any command used to trigger a recall indicator corresponds to a

5   description for a reason for a recall that is stored remotely from the product as the Applicant claims. Reading the totality of the '201 reference shows that the only "information" that is delivered to the user is that of triggering an appropriate relay for enabling an indicator or selecting an appropriate warning "that a recall campaign has been initiated" (col 16, lns 19 – 24). Bishop

10   teaches nothing else.

The Examiner has enlarged the description of the '201 reference through impermissible hindsight and, during an interview, actually *admitted that the Bishop '201 reference is ambiguous* and hence *needs to be interpreted.*

15   During this same interview, the Examiner's supervisor admonished the Examiner that an ambiguous reference could not be used as the Examiner presupposes.

Given that the '201 reference fails to teach the reception of a recall notice

20   indicator where this indicator is correlated to a description of a recall stored in a remote memory is sufficient to demonstrate that the Examiner has failed to establish a prima facia case for obviousness. Accordingly, the rejection of Claims 1, 7, and 24 under 35 USC 103(a) as being unpatentable over US PAT 6,611,201 must be withdrawn.

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3. Despite the last interview with the Examiner, the Examiner continued to argue, with almost reckless abandon, that the Bishop '201 reference teaches the conveyance of "recall information" and argued that Bishop '201 actually receives textual descriptions and other forms of "information". According to

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the Examiner, the term "information" encompasses every form of communications. Because of this, the Examiner argued, during this interview, that Bishop '201 was capable of conveying a recall notice indicator despite Applicant's discussion relating to the true nature of the Bishop method.

5   Applicant avers that Bishop '201 is only capable of conveying information by activating relays or selecting pre-programmed message. The Examiner's suggestion that the delivery of "information" cannot be accomplished by operating a relay defies common practice. Everything that the '201 system communicates to an automobile operator is based on information that is

10   stored in the vehicle and communicated to an operator by the operation of a relay or the like. In the case of the dashboard display, when a relay in slave unit 2 is activated "information" that has been stored therein is communicated to the operator via the dashboard display. The display might say "trunk open", or "15,000 mile check-up due", or any other information that has been

15   programmed into the slave unit 2. Not only is there no basis for saying that "information" cannot be conveyed to the operator by means of a relay operation, the '201 patent states that that is exactly how it is done. (Col. 12, lines 13-34).

20   The Examiner also argues that it would be obvious to store the recall notice identifier along with a time and date. The Examiner attempts to support all of this by further expanding a simple and ambiguous statement in Bishop '201 (col 16, lns 40 – 45) that an indication that a recall notice was received can be written into permanent memory for the purpose of dispute resolution. The

25   Examiner simply reads far too much into this statement. Bishop teaches that only *an indication of reception* is recorded; nothing else is recorded. Perhaps Bishop '201 contemplates other means to support dispute resolution, but no teaching of such other means is taught or even remotely suggested. The Applicant is correct in reading that the indication can be used to demonstrate

that the signal was received. In Bishop's thinking, perhaps this alone was sufficient to provide evidence for dispute resolution. Nothing more is taught by Bishop '201. Even more important, since Bishop '201 does not contemplate different reasons for a recall (and Applicant notes that there is absolutely no

5   such teaching anywhere in Bishop), Bishop '201 can not store a recall notice indicator that correlates back to a description stored in a memory remote to the product.

The Applicant asks why, in light of Bishop, is storing a time value required for

10 dispute resolution? It is clear that the Examiner is inventing by applying impermissible expansion of the references teaching. Why is the Examiner so bent on the notion that a time value would be needed to resolve a dispute? As an alternative, could Bishop '201 not have contemplated the use of a back-end system that would store the time that a message was sent and then

15 use that evidence in conjunction with a stored indication that the message was received? After all, Bishop only teaches storing an "indication that the recall notice was received" (Col 16, Ln 42). Again, hindsight reasoning is the only thing driving the arguments proffered by the Examiner.

20 With respect to Claim 7, the Examiner argues that it would be inherent that a clock internal to the receiver would be set by a time beacon. Applicant does not have to argue long here since the Examiner fails to appreciate the requirements for inherency – that being that *it must follow*, i.e. that there could be no other way for the time to be set. This, of course, is nonsense. The

25 clock internal to the Applicant's receiver could be set in different ways. For example, the clock could be set by the user. The problem here is that the Examiner fails to appreciate that setting the time value by means of a beacon is not merely a convenience, but a means to ensure that the time clock in the receiver is in fact synchronized with a system time. So, in Applicant's system,

storing the time value provides additional evidence in the case of dispute resolution and this time evidence can not be altered by a user in the event that the user were otherwise allowed to set the time. Again, Bishop '201 teaches no such method and does not even acknowledge that a time value is

5   saved nor that a local clock in the receiver is updated by a time beacon.

Despite all of his arguments, the Examiner has simply failed to set forth a prima facia case for obviousness. Bishop '201 simply does not teach each and every claim limitation set forth in Claims 1, 7 and 24.

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4. Claims 29 – 31 have been rejected under 35 USC 103(a) as being unpatentable over Bishop '201 in view of US Pat 5,442,553 to Parrillo.

Parrillo is simply non-analogous art in that it does not relate to sending out

15   product recall notices. In fact, Parrillo does not deal with sending out any user notices at all. Rather, Parrillo deals with sending out new software to a vehicle.

More importantly, Claims 29 – 31 are limited by the need to receive a product

20   recall notice identifier, which neither Bishop '201 nor Parrillo teach, suggest or otherwise disclose. Accordingly, the Examiner has failed to establish prima facia case for obviousness and this rejection must be withdrawn.

Applicant also reminds the Examiner that every dependent claim that stems

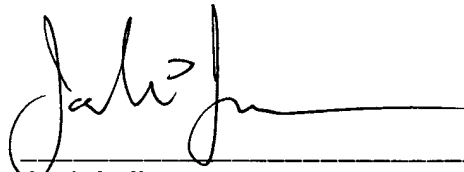25   from a non-obvious independent claim must also be found as non-obvious.

5. Claims 32 – 44 have been rejected under 35 USC 103(a) as being unpatentable over Bishop '201 in view of US Pat 6,611,755 to Coffee.

Applicant again questions why the Examiner has failed to recognize that Claims 32 – 44 are limited by the need to receive a product recall notice identifier. As such, combining Bishop with Coffee does not remedy this deficiency and so, this obviousness rejection must be withdrawn because the

5   combination of these reference does not teach or suggest every claim limitation.

Applicant again reminds the Examiner that every dependent claim that stems from a non-obvious independent claim must also be found as non-obvious.

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6. For the foregoing reasons, and those discussed in our recent interview, it is urged that this application is in condition for allowance. If the Examiner has any questions, it is requested that he contact Jack J'maev at 909-437-8390. Applicant thanks the Examiner again for his careful attention to this

15   application.

Respectfully submitted,

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